IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

RPFC.No. 254 of 2007()

AGAINST THE ORDER IN CMP 733 2007 IN
MC.45/2007 of FAMILY COURT, MALAPPURAM

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: REVISION PETITIONER/RESPONDENT

MUHAMMED KUTTY ARIPRATHODI,
S/O ABDURAHIMAN @ ABU, MANGALAD HOUSE,
PALLIKKAL AMSOM, DESOM, P.O.PUTHUR PALLIKKAL.

BY ADV. SRI.DEVAPRASANTH.P.J.

RESPONDENTS: PETITIONER

KADEEJA PERUMTHODI,
D/O SAITHALAVI, VELLEGARA HOUSE,
P.O.PALLIKKAL.

BY ADV. SRI.P.SAMSUDIN
SRI.P.SAMSUDIN

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

R.P.(F.C.) No. 254 OF 2007

Dated this the 20th day of July, 2007

O R D E R

Heard both sides.

2. The revision petitioner, who is the husband of the respondent, challenges the order dated 7.6.2007 passed by the Family Court, Malappuram, in C.M.P.No.733/07 in M.C.No.45/07. As per the final order dated 13.3.07 in the above M.C., the petitioner was directed to pay a sum of Rs.2,000/- (Rupees two thousand only) to the wife, Rs.800/- (Rupees eight hundred only) to the first child, Rs.700/- (Rupees seven hundred only) to the second child and Rs.600/- (Rupees six hundred only) to 3rd child. The said order is produced as Annexure-2. It was passed ex-parte. On the same day itself, the petitioner filed the present CMP No.733/07 for setting aside the ex-parte order stating that he was not represented by a counsel and that he who was physically present in the Family Court could not follow the proceedings and that was the reason why the ex-parte order happened to be passed against him. As per Annexure-3 order dated 7.6.07, the Family Court dismissed the said petition. Hence, this revision.

3. There appears to be some force in the statement made on behalf of the revision petitioner. He does not appear to have indulged in

any delatory tactics with a view to avoid his liability. Pending this revision, he was directed to deposit a sum of Rs.7,500/- (Rupees seven thousand five hundred only) before the Family Court. He has complied with the said direction. The respondent is free to withdraw the said amount. Having regard to the facts and circumstances of the case, I am inclined to give the petitioner one more opportunity to substantiate his case. Accordingly, the order dated 7.6.07 in CMP No.733/07 in M.C.No.45/07 on the file of the Family Court, Malappuram is set aside and the said court is directed to dispose of the said petition after giving the petitioner an opportunity of being heard. But the petitioner cannot have the luxury of a reconsideration of his petition without any condition. Accordingly, the petitioner shall be entitled to have his petition considered only if he continues to deposit before the court below a sum of Rs.1,000/- (Rupees one thousand only) every month. The respondent shall be entitled to withdraw the amounts as and when deposited.

This revision is allowed as above.

(V. RAMKUMAR, JUDGE)

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